

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB STORY**, on April 3, 2001 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Roger Somerville, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Keith Bales (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Trudi Schmidt (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. David Wanzenried (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch
Rhonda Van Meter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 512, SB 505, SB 494
4/2/2001
Executive Action: SB 400, SB 411, SB 350

HEARING ON SB 512

Sponsor: SEN. MIKE HALLIGAN, SD 34, MISSOULA

Proponents: SEN. TOM BECK, SD 28, DEER LODGE
Donald Quander, MT. Large Customer Group
Greg Grepper, MT. Energy Share
Debbie Smith, Natural Resources Defense Council
Ralph Denoski, Plant Manager, Trident Plant
Tom Daubert, Ashgrove Cement Company
Patty Keebler, MT. AFL-CIO
Dore Schwinden, Stillwater Mining Company

Opponents: Ken Morrison, PPL

Informational Witnesses: Tom Ebzery, Energy Companies

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 34, MISSOULA, stated this bill attempts to work with the price of energy. He referred to the short term measure and how this was not an excise profit tax, but simply an excise tax. He said this would assist all types of businesses. He went through sections of the bill and offered clarifications of the pricing.

Proponents' Testimony:

SEN. TOM BECK, SD 28, DEER LODGE, supported this legislation. He felt this bill was simple and would be feasible to the state with the limited period of time.

Donald Quander, MT. Large Customer Group, mentioned the costs involved with generating power for the state. He talked about market pricing and the effects it would have on the state.

Greg Grepper, MT. Energy Share, offered statistics of the state and how this bill would provide good pricing for power.

Debbie Smith, Natural Resources Defense Council, supported the excise tax portion of the bill and felt a provision should be offered for funding to go to the university systems.

Ralph Denoski, Plant Manager, Trident Plant, supported the bill. He explained electricity options and offered statistics of the pricing.

Tom Dobear, Ashgrove Cement Company, supported this bill for the intent to assist with pricing.

Patty Keebler, MT. AFL-CIO, felt the legislation would assist low income households, protection to businesses and would encourage generation of power.

Dore Schwinden, Stillwater Mining Company, supported the bill.

Opponents' Testimony:

Ken Morrison, PPL, read written testimony **EXHIBIT (tah75a01)**.

Informational Witnesses:

Tom Ebzery, Attorney, Billings, represented the Colstrip companies and felt there were concerns involved with the bill.

{Tape 1; Side B}

Questions from Committee Members and Responses:

REP. RON ERICKSON asked how much of the appropriations might go to the universal services. **SEN. HALLIGAN** said he did not know the exact answer due to the pricing.

REP. TRUDI SCHMIDT asked about the tax measure solving the tax rate. **Ken Morrison** mentioned the process the tax measure would involve.

REP. SCHMIDT asked how to respond to the plant owners with the high pricing. **Ken Morrison** said the particular tax would be on one industry. He explained the market and pricing involved.

REP. GARY FORRESTER asked about deregulation. **Donald Quander** explained the difference of regulation and deregulation. He stated this legislation would offer a good solution.

REP. FORRESTER wondered about regulating suppliers. He asked if the power supplier could be informed. **SEN. HALLIGAN** said this bill would not deregulate the price of power.

REP. RON DEVLIN asked if another fiscal note was requested. **SEN. HALLIGAN** explained the fiscal note.

REP. RICK DALE referred to page six and asked about small power plants being restricted to certain megawatts. **SEN. HALLIGAN**

talked about the growth of the larger facilities. **Donald Quander** offered more detail of the power plants and facilities.

REP. DALE asked about permanent generation facilities. **Donald Quander** thought the language in the bill was reasonable and he explained facilities and the burning of fuels.

REP. EILEEN CARNEY asked about the prices. **Ken Morrison** talked about assets from Montana Power Company and explained the full requirements contract.

REP. CARNEY asked what the cost was for the power produced. **Ken Morrison** said it would vary depending upon the purchase of power.

REP. JOE BALLYEAT asked if this bill would be affordable to larger facilities. **SEN. HALLIGAN** thought it would be affordable.

REP. BALLYEAT wondered about the tax rates and asked about the concept pertaining to this. **SEN. HALLIGAN** explained the price for production and the rate involved.

{Tape 2; Side A}

REP. DEVLIN referred to the fiscal note and asked if the bill in its current form covers contracts out of state. **Donald Quander** believed the bill did cover all contracts. He explained sections in the bill pertaining to this. He handed out a possible amendment offering definitions and clarifications

EXHIBIT (tah75a02).

REP. KARL WAITSCHIES asked if the tax was on the gross sales prices. **SEN. HALLIGAN** answered yes.

REP. WAITSCHIES asked if the companies were generating any other taxes beside this one. **SEN. HALLIGAN** explained corporate income tax and property taxes involved.

REP. KEITH BALES wondered about the gross amount of sales at a certain rate. He didn't think the bill read the way it was explained. **Donald Quander** understood the rate could be applied to the total amount and the current language was not offering clarification. **SEN. HALLIGAN** thought it should be the graduated rate and the language could come from the income tax code.

REP. BALES asked what the estimated cost of new energy coming on line would be. **SEN. HALLIGAN** said it was a speculated number. He thought it to be approximately three or four cents added on the first year.

REP. BALES asked what was currently being paid for power. **Ralph Denoski** gave a background of the contract and what was being paid during the interval of time.

REP. CARNEY asked what the difference between markets was. **Tom Ebzery** explained the markets and how the power is sold.

REP. CARNEY asked what the megawatt cost per hour. **Tom Ebzery** said the price goes into the pool of the state. He wasn't able to offer the cost generation, and explained the taxes involved.

{Tape 2; Side B}

REP. ROGER SOMERVILLE referred to Section 11 and asked how the energy assistance program would impact the customers receiving electricity from co-ops. **SEN. HALLIGAN** said they should be exempt under Section five of the bill and they would not be apart of the tax.

Closing by Sponsor:

SEN. MIKE HALLIGAN, SD 34, MISSOULA, summarized the bill and explained the opportunity presented to assist current power. He talked about a possible reserve during the long term. He felt this would assist customers within the state.

HEARING ON SB 505

Sponsor: **SEN. MIKE TAYLOR, SD 37, PROCTOR**

Proponents: **Jim Mockler, Executive Director, MT. Coal Council**
Debbie Smith, Natural Resources Defense Council
Patrick Judge, MT. Environmental Information Ctr.
Don McDowell, County Commissioner

Opponents: **None**

Opening Statement by Sponsor:

SEN. MIKE TAYLOR, SD 37, PROCTOR, presented an amendment defining language **EXHIBIT(tah75a03)** and another amendment inserting language **EXHIBIT(tah75a04)**. He called the bill a long term solution to the energy crisis. He stated this bill would increase the tax production for energy conservation and for wind, solar and geothermal. He said the legislation would exempt certain property tax and non-commercial facilities. He went

through sections of the bill and offered definitions of the information he presented.

Proponents' Testimony:

Jim Mockler, Executive Director, MT. Coal Council, agreed with the amendments that were presented. He explained burning waste coal and the megawatt definition.

Debbie Smith, Natural Resources Defense Council, handed out a pamphlet on cleaner air **EXHIBIT(tah75a05)**. She also handed out information on Montana wind resources **EXHIBIT(tah75a06)**. She went over the handouts and felt the bill provided meaningful incentives for power resources. She went through sections of the bill and explained the costs.

Patrick Judge, Mt. Environmental Information Center, encouraged adoption of expansion and incentives for conservation. He mentioned the natural resources and went through Section one.

Don McDowell, County Commissioner, Power River, indicated the counties around his and explained the effects this bill would offer. He asked the committee for their support.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. BALES asked if the impact fund would be sufficient to assist the county. **Don McDowell** mentioned the time frame involved with the county expansion project. He thought the impact fund would be helpful.

{Tape 3; Side A}

REP. ERICKSON asked for more information regarding industrial versus commercial. **Debbie Smith** didn't have the breakdown information.

REP. ERICKSON referred to the fiscal note and wondered about additional funds. **SEN. TAYLOR** explained the fiscal note and what the funds would provide and in what areas.

REP. BALES asked if the counties would need additional funds. **SEN. TAYLOR** had no problem with counties being offered additional funding. He explained competition from other states.

REP. BALES asked if money would go back to consumers to generate electricity and utilize the lines less efficiently. **Debbie Smith** said currently the lines are not being used less efficiently. She explained the use of the lines installed and how there would be increased capacity on the lines.

REP. SCHMIDT referred to the technical notes and asked them to be addressed. **SEN. TAYLOR** commented on the technical notes and what they would refer to.

{Tape 3; Side B}

Closing by Sponsor:

SEN. MIKE TAYLOR, SD 37, PROCTOR, summarized the bill and how it would impact the state. He felt the legislation would assist in the long term. He mentioned the percentages involved with the legislation and how the definitions help with clarifications of the bill.

HEARING ON SB 494

Sponsor: **SEN. JOHN COBB, SD 25, AUGUSTA**

Proponents: John Fitzpatrick, Touch America
Kurt Alme, Director, Department of Revenue
Russ Cravens, Qwest
Joyce Scott, Office of Higher Education
Eric Burke, MEA-MFT
Stan Kaleczyk, Verizon Wireless

Opponents: Geoff Feiss, MT. Telecommunications

Informational Witness:

Gene Walborn, Department of Revenue
Mike Strand, MT. Independent Telecommunications
Systems

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, AUGUSTA, explained the bill pertaining with the telecommunications tax. He addressed revenue neutral and the effects of this legislation. He read a written testimony from a proponent **EXHIBIT (tah75a07)**. He stated the bill would take out investment credit and offer development.

Proponents' Testimony:

John Fitzpatrick, Touch America, believed this bill would take a great step to assist telecommunications and the tax involved. He mentioned the adjustments and assessment values. He talked about the roaming revenue and the generation given back to the state.

Kurt Alme, Director, Department of Revenue, explained the charges that were taxable. He mentioned tax laws and how the bill would assist the department by increasing stability and reducing the inconsistencies.

Russ Cravens, Qwest, read written testimony **EXHIBIT (tah75a08)**.

Joyce Scott, Office of Higher Education, supported the bill.

Eric Burke, MEA-MFT, supported the bill and asked the committee to pass.

Stan Kaleczyk, Verizon Wireless, thought the legislation would assist Montana by bringing the telecommunications together. He felt a technical amendment should be added providing a provision for the effective dates.

Opponents' Testimony:

Geoff Feiss, MT. Telecommunications, mentioned the rate increase to consumers. He felt there should be more affordable and promotional investments into telecommunications infrastructure.

{Tape 4; Side A}

Informational Witnesses:

Gene Walborn, Department of Revenue, handed in a proposed amendment **EXHIBIT (tah75a09)**.

Mike Strand, MT. Independent Telecommunications Systems, talked about the retroactive aspects of the bill. He felt the legislation would offer intense negotiations. He explained the tax being imposed by charges and fees collected by carriers.

Questions from Committee Members and Responses:

REP. JESSE LASLOVICH asked if there were any objections. **SEN. COBB** answered yes, there were objections.

REP. LASLOVICH asked about the retroactivity. **SEN. COBB** said it was not included within the fiscal note yet. **Kurt Alme** explained the charges pertaining to the retroactivity.

REP. LASLOVICH asked about the increase of roaming charges. **John Fitzpatrick** explained roaming fees and how they were applied.

REP. ERICKSON asked if there were other projects that could be included. **John Fitzpatrick** believed there were three projects approved last year covered by a tax credit.

REP. ERICKSON asked about the geographic area for the projects. **John Fitzpatrick** said it included Missoula, Anaconda and Bozeman.

REP. ERICKSON asked what loss there would be if this bill were to pass. **Geoff Feiss** gave an example of a company in Lincoln.

REP. SCHMIDT asked about the tax involved with roaming charges. **Russ Cravens** couldn't answer what the tax in other states would be. He explained taxes being charged in other states and how it would vary in each state.

REP. FUCHS asked if the House amendments would be acceptable. **SEN. COBB** mentioned a possible conference committee and didn't oppose to any additional amendments added.

Closing by Sponsor:

SEN. JOHN COBB, SD 25, AUGUSTA, closed on the bill. He addressed the revenue neutral issue and felt the amendments would add clarifications to the bill.

EXECUTIVE ACTION ON SB 400

Motion/Vote: **REP. ERICKSON** moved SB 400 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 411

Motion: **REP. FUCHS** moved SB 411 BE CONCURRED IN.

Discussion:

REP. ESP felt the proponents of the bill did not have accurate information.

REP. SOMERVILLE referred to a list handed out to the committee pertaining to areas with ethanol pumps.

{Tape 4; Side B}

REP. JACKSON thought there were enough incentives in the bill.

Motion/Vote: REP. FUCHS moved SB 411 BE TABLED. Motion carried 18-2 with REP. WANZENRIED and REP. WAITSCHIES voting no.

EXECUTIVE ACTION ON SB 350

Motion: REP. STORY moved SB 350 BE AMENDED. Amendments were handed out **EXHIBIT** (tah75a10).

Discussion:

CHAIRMAN STORY explained the amendment and how a contribution could be made towards an endowment.

Substitute Motion: REP. ESP made a substitute motion eliminating Section one and Section two of the bill and amend.

Discussion:

REP. ESP explained that there will be better eligibility by eliminating these sections.

REP. WAITSCHIES agreed with the elimination and explained the cash contributions.

REP. ERICKSON thought the deduction was way too high.

Substitute Motion: REP. ERICKSON made a substitute motion Section one would be cut in half and reduce the deduction.

Vote: Substitute Motion (Rep. Erickson) carried 11-9 with REP. SOMERVILLE, REP. ANDERSEN, REP. BALES, REP. BALLYEAT, REP. CYR, REP. DALE, REP. DEVLIN, REP. FORRESTER and REP. FUCHS voting no.

Substitute Motion: REP. ESP made a substitute motion moving amendment to take out direct contribution.

Discussion:

REP. WAITSCHIES wondered if that would reinstate the endowment credit to 40%. CHAIRMAN STORY explained the section would be out of the bill.

REP. ERICKSON wanted to keep the first section in because it would offer planned gifts for those who are unable to utilize.

Vote: Substitute Motion (Rep. Esp) failed 4-16 with REP.
WAITSCHIES, REP. FUCHS, REP. BALYEAT and REP. JACKSON voting aye.

Motion/Vote: REP. ESP moved SB 350 BE CONCURRED IN AS AMENDED.
Motion carried 19-1 with REP. BALYEAT voting no.

ADJOURNMENT

Adjournment: 11:57 A.M.

REP. BOB STORY, Chairman

CECILE M. TROPILA, Transcriptionist

BS/RV

EXHIBIT (tah75aad)